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Federal Communications Commission
Office of Secretary

BEFORE THE

Federal Communications Commission

In re)
)
GERARD A. TURRO) MM Docket No. 97-122
)
For Renewal of License) File Nos. BRFT-970129YC
for FM Translator Stations) BRFT-970129YD
W276AQ(FM), Fort Lee, NJ, and)
W232AL(FM), Pomona, NY)
)
MONTICELLO MOUNTAINTOP)
BROADCASTING, INC.)
)
Order to Show Cause Why the Construction)
Permit for FM Radio Station WJUX(FM),)
Monticello, NY, Should Not Be Revoked)

To: Administrative Law Judge
Arthur I. Steinberg

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MOTION TO ENLARGE ISSUES

Universal Broadcasting of New York, Inc. ("Universal"), through its attorneys and pursuant to Section 1.229 of the Commission's Rules, respectfully requests that the issues specified against Gerard A. Turro in the above-captioned proceeding be enlarged follows:

To determine whether Turro intentionally violated Sections 1.1208 and 1.1210 of the Commission's ex parte rules by soliciting a third party to call and/or write the Commission on Turro's behalf to discuss the merits of Turro's renewal application proceedings and whether Turro, in addition to denial of renewal of license, may be liable for a forfeiture of up to the maximum statutory amount.

In support of such motion, Universal sets forth the following.

1. A Hearing Designation Order ("HDO") in this proceeding was released on April 18, 1997 and, pursuant to Section 1.1208 of the Rules, this matter is a restricted proceeding. Accordingly, in order to protect the fairness of this proceeding for all parties, including Universal,

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by assuring that Commission decisions are not influenced by impermissible off-the-record communications, all ex parte presentations to decision makers concerning the issues in this proceeding are prohibited.

2. Universal's counsel has been informally advised by the Commission staff that, on or about April 25, 1997, United States Senator Robert G. Torricelli (D, NJ) sent a letter to the Commission discussing the merits of the matters raised in this proceeding. Universal's counsel has yet to be provided with a copy of Senator Torricelli's letter; however, on April 29, 1997, the Bergen Record published an article, set forth as Attachment A, which made reference to the substance of Senator Torricelli's ex parte contact.

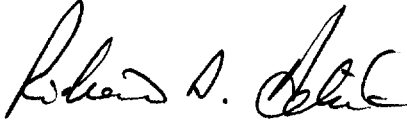
3. On April 28, 1997, Senator Torricelli, United States Representative Steve Rothman (D, NJ) and Bergen County Executive William "Pat" Schuber, participated in a fifteen minute call-in program broadcast from 10:45-11:00 a.m. by WJUX and Turro's FM translators which originated from Turro's Dumont, New Jersey studio. While this program was in progress, Universal was alerted and was able to record the last 3-4 minutes of the program; Universal's counsel has the tape recording in his possession and made a transcript of relevant portions of the program, set forth at Attachment B, in which impermissible ex parte communications were solicited from the public.

4. Turro's direct involvement in the solicitation of illegal ex parte presentations by third parties to improperly interfere with these proceedings must be presumed in that such solicitations were made in a program which was produced, controlled and distributed by Turro and broadcast and/or allegedly rebroadcast, over facilities controlled by or licensed to Turro. In any event, the requested motion for enlargement of issues should be granted. See, e.g., Rainbow Broadcasting Company (FCC 97D-05), released April 2, 1996 (Initial Decision of ALJ Joseph Chackin).

5. Moreover, Turro relied on political pressure tactics in the form of solicited letters and calls to the Commission during the pendency of Universal's complaint (from which the HDO in this proceeding is based) in an effort to delay and influence the Commission's decision in that matter; although Turro's efforts were ultimately unsuccessful, there is a pattern of conduct here which suggests that Turro is continuing his efforts to abuse the Commission's processes.

Respectfully submitted

UNIVERSAL BROADCASTING OF NEW YORK, INC.

By: 

Roy R. Russo
Richard A. Helmick

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Its Attorneys

May 8, 1997

ATTACHMENT A

Small Text

TEANECK — A firefighter who filed a civil rights lawsuit last year against the township and the Fire Department has added a new round of allegations to his original complaint.

William J. Brennan claims in an amended lawsuit that high-ranking officials in the Teaneck Fire Department have continued harassing him, even after Brennan, a former union leader, put them on notice last year that he planned to sue them.

New allegations include the unfounded demotion of

a firefighter who is friendly with Brennan, and the denial of vacations to other firefighters who have supported him in some way.

Such treatment, the lawsuit charges, "has had a chilling effect" on Brennan's ability to associate with colleagues.

"There's a separate part of the law saying that a defendant can't retaliate against a plaintiff who attempts to assert his constitutional rights in a court of

law," said Robert Brennan. "So he put them

In addition to District Court, Saage acted when he sued

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Jukebox Radio gets key support

Public officials appeal to FCC

By JOHN CICHOWSKI

Staff Writer

A U.S. senator, a congressman, and Bergen County's top elected official vowed Monday to keep embattled Jukebox Radio on the air — even if it takes an act of Congress.

Sen. Robert G. Torricelli, D-N.J.; Rep. Steve Rothman, D-Fair Lawn, and County Executive William "Pat" Schuber took to the airwaves to say they would ask Federal Communications Commission Chairman Reed Hundt to withdraw a complaint claiming the FM signal violates FCC rules.

"The FCC staff is determined to end the station, but we think the violations are minor and technical, and taking it off the air would be a disservice to the community," Torricelli said during a 15-minute broadcast at the station's Dumont studio.

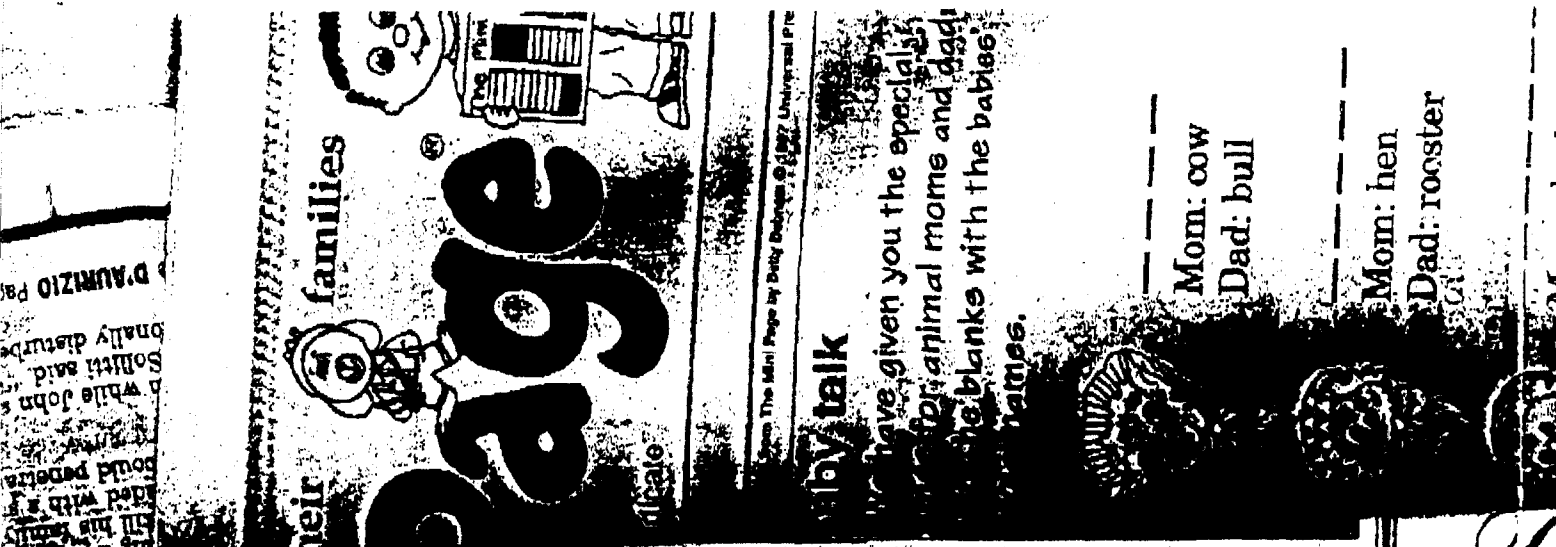
If the complaint is not withdrawn, the senator said, he will attempt to legitimize the station by introducing a bill authorizing a full-time commercial FM facility for counties of Bergen's size.

Although an FM station is not allocated for Bergen by the FCC, tiny transmitters in Fort Lee and Pomona, N.Y., owned by Oradell's Gerard Turro, rebroadcast the signal of WJUX-FM of Liberty, N.Y., which is owned by Turro's friend Wesley Weiss. Under a disputed

Toeing the line against diabetes



Top: Kim Morris, as Aurora, with the fairies from "The Sleeping Beauty." Abc



PETER MONSIEES/STAFF PHOTOGRAPHER
Speaking out for Jukebox Radio in an on-air news conference Monday, from left: Bergen County Executive William "Pat" Schuber; Rep. Steve Rothman, D-Fair Lawn, and U.S. Sen. Robert G. Torricelli, D-N.J.

JUKEBOX: Station gets support

From Page L-1

FCC agreement, Turro also owns the Dumont studio which transmits the programs through telephone lines to Weis' station.

Torricelli, Rothman, and Schuber visited the studio to respond to an April 18 FCC complaint accusing Turro and Weis of violating rules banning use of low-power transmitters and microwave antennas to route programs from one market to another. The commission also alleges the two misrepresented their plans in licensing applications.

If the violations are proven at a hearing in Washington, D.C., each licensee faces \$1 million in fines.

Turro said he is setting up a fund to finance his defense, which he said could cost as much as \$100,000.

"We will fight this to the death," he said after the broadcast. "I'm not going to let some out-of-town millionaire take this station away from me."

He was referring to competitor Howard Warshaw, owner of WVNJ-AM of Oakland, which filed an initial complaint against Turro and Weis in February 1995. Warshaw claimed that rebroadcasting WJUX's signal in Bergen County over Turro's transmitters impeded his station's ability to operate profitably. Owners of tiny transmitters — called translators — usually are permitted only to rebroadcast signals of radio stations programmed by others.

Warshaw's attorney, Richard Helmick of Washington, said any attempt by Torricelli to intercede on Jukebox's behalf would be in-

appropriate.

"Political solutions will not put Jukebox Radio in compliance with the commission's rules," Helmick said. "The senator should not be talking to the commission at this stage."

Turro and Weis have argued that their system was approved, in theory, by FCC staff members in 1991, two years before they began operation. But last year, the commission's staff said the two exceeded the authorization in practice. In response, Turro agreed in August to sell his translators.

"Jukebox Radio is a hometown station that responds responsibly to the needs of Bergen County," Schuber said. "We're asking the commission to show some flexibility in its rules so the station can continue to provide service."

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ATTACHMENT B

TRANSCRIPT OF JUKE BOX RADIO BROADCAST OF APRIL 28, 1997

10:56 - 11:00 A.M., WITH SENATOR ROBERT G. TORRICELLI (D, NJ), CONGRESSMAN STEVE ROTHMAN (D, FAIRLAWN, NJ) AND BERGEN COUNTY EXECUTIVE WILLIAM "PAT" SHUBER

CONGRESSMAN ROTHMAN: "SENATOR BOB TORRICELLI SAID THERE ARE MANY WAYS FOR THE PEOPLE OF BERGEN COUNTY TO HELP, YOU'VE GOT THE SUPPORTERS AND YOUR COUNTY EXECUTIVE PAT SCHUBER AND UNITED STATES SENATOR BOB TORRICELLI AND MYSELF. YOU CAN WRITE TO EACH OF US AND WE WILL CONVEY YOUR THOUGHTS TO THE FEDERAL COMMUNICATIONS COMMISSION. YOU CAN WRITE DIRECTLY TO THE FEDERAL COMMUNICATIONS COMMISSION. IF PEOPLE THINK THAT THEIR LETTERS DON'T HAVE AN IMPACT, YOU ARE WRONG. YOUR LETTERS HAVE A GREAT IMPACT ON ELECTED OFFICIALS AND ON THE BUREAUCRATS IN WASHINGTON, SO, PLEASE, DON'T BE SHY; LET THESE BUREAUCRATS KNOW THAT WE WANT THEM TO WORK WITH JUKEBOX RADIO, ACCEPT THE SETTLEMENT, SO THAT BERGEN COUNTY CAN CONTINUE TO HAVE AN FM STATION BROADCASTING LOCAL NEWS AND INFORMATION AS WELL AS ITS GREAT MUSIC.

.....

SENATOR TORRICELLI: NOW, MARY, THIS IS BOB TORRICELLI. LET ME TELL YOU THAT I THINK THAT'S A GOOD WAY TO END THIS DISCUSSION 'CAUSE THAT'S EXACTLY THE CASE. IT'S NOT ONLY A QUESTION OF THE FCC BEING A LITTLE REVENGEFUL AS A GOVERNMENT BUREAUCRACY, IT'S ALSO A QUESTION THAT THEY ARE BEING PUSHED BY SOME ECONOMIC COMPETITORS WHO CAN'T TAKE THE COMPETITION. WE ARE GOING TO DO OUR BEST, WE ARE GOING TO SAVE JUKEBOX RADIO, IT IS A WONDERFUL ASSET FOR BERGEN COUNTY AND AS LONG AS THEY MEET OUR COLLECTIVE PRIZE WHICH IS THAT THEY CONTINUE WITH *SATURDAY NIGHT WITH SINATRA*, THEN OTHERWISE WE ARE GOING TO DO OUR BEST AND WE ARE GOING TO SAVE THIS GREAT ASSET FOR BERGEN COUNTY.

JUKEBOX RADIO ANNOUNCER: SENATOR TORRICELLI, CONGRESSMAN ROTHMAN, COUNTY EXECUTIVE SHUBER, THANK YOU ALL SO MUCH. OUR DEEPEST AND MOST SINCERE APPRECIATION FOR YOUR VISIT THIS MORNING AND WITH YOUR HELP AND SUPPORT THROUGHOUT THE YEAR WE TRULY FEEL WITH YOU AS OUR ALLIES WE'LL BE CONFIDENT IN SERVING THE COMMUNITY FOR MANY, MANY YEARS TO COME. OF COURSE, WHAT MAKES JUKEBOX A REALITY IS YOU, THE LISTENER, AND WE THANK YOU. WITH YOUR CONTINUED SUPPORT WE PLEDGE TO CONTINUE TO SERVE YOU IN THE BEST WAY WE KNOW HOW.

CERTIFICATE OF SERVICE

I, Jovana M. Cooke, a secretary in the law firm of Cohn and Marks, hereby certify that I have, this 8th day of May, 1997, sent by U.S. mail, postage prepaid, or by hand delivery, as indicated, the foregoing **MOTION TO ENLARGE ISSUES** to the following:

The Honorable Arthur I. Steinberg */
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*/ By hand.


Jovana M. Cooke